TOWNSHIP OF TOMS RIVER

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MEMORANDUM

February 10, 2009

To: Leigh Jones, NJ Office of Smart Growth

Re: Monthly Report

This is the first in a series of monthly reports on Toms River's efforts to secure Plan Endorsement. Our schedule calls for reaching agreement with the staff of the Office of Smart Growth no later than June 30, 2009, followed by completion of Action Plan items by the end of 2009.

While I continue to have difficulty with the regulatory aspects of the process, namely the potential impacts of 30% impervious coverage limits on properties that lie in commercial corridors along major roads throughout the Township, we will make sincere efforts to balance those concerns with other techniques that might be utilized to allow for the development of commercial properties in a manner that is more consistent with the character of existing development.

We had been advised by your office that Lakewood was looking into the use of noncontiguous clustering as a way of beginning to address this issue. I met with Stan Slachetka to gain an understanding of the approach he was using as a consultant to Lakewood, and we had a comprehensive and fruitful discussion. In this context, noncontiguous clustering would call for the preservation of certain tracts of land by crediting pervious and forest cover requirements on a parcel that is not contiguous to the parcel that is being developed. The obvious advantage of this approach is that it would conserve properties that lie in more remote locations in the Township, allowing that acreage to be counted toward the impervious coverage calculation in the commercial corridors. Since the scheme would be based strictly on acreage and not on the underlying zoning, commercial property owners could take advantage of purchasing property in outlying areas, crediting it toward coverage, and restricting it from further development by placing conservation easements on the property. This differs substantially from Transfer of Development Rights approaches in two respects. In the first instance, it is not dependent on the underlying zoning of the "sending" parcels since it is based strictly on acreage and Planning Area/ Environmental designation, and perhaps more importantly it can be carried out in a much more cost-effective manner since it is driven by private market forces rather than statutory regulatory scheme that is quite involved and costly.

While looking at this approach as relatively promising, there are some pitfalls that would need to be addressed in order for it to be viable as broadly applied. It may require the identification of parcels that would clearly be candidates for preservation and that are not otherwise in the public domain or which lie in identified areas of environmental sensitivity, such as C-1 buffers. A data base would be helpful in quantifying the lands available from which to transfer impervious cover, and in that regard our GIS professional is looking into vacant and under-utilized parcels that are in private ownership, are free of critical environmental constraints, and would fit reasonably well

into a comprehensive program of open space preservation. One of the issues that would have to be addressed as a part of the program would be the cost of acquiring the parcels which would be conserved and how that impacts the value and potential development of the parcels that lie in the commercial corridor. If the economics do not make sense, obviously the program will not work.

In response to the meeting held at OSG on February 4, at which time we provided copies of our most recent Master Plan amendments, including the Housing Element and Fair Share Plan adopted by the Planning Board and endorsed by Township Council, we are now preparing a shapefile to be submitted to OSG showing the sites that lie in our affordable housing plan that was filed with Superior Court and which met the December 31, 2008 deadline imposed under the COAH rules. It was pointed out at the meeting that Toms River is faced with meeting the highest effective obligation of any municipality in New Jersey, that it continues to provide affirmative zoning for affordable housing in spite of never having achieved Substantive Certification, that it arguably has provided the highest number of affordable housing units of any municipality in the state since the passage of the Fair Housing Act, and that the Township continues to grant development approvals in order to provide a balanced supply of housing affordable to a wide range of households.

The Township continues its attempts to resolve the high allocations of affordable housing while facing large private sector job deficits and while attempting to attract economic development and affordable housing opportunities in areas that are limited to 30 percent impervious coverage.

As an outgrowth of the February 4 meeting, we are looking at defining centers in two stages. In the first stage we would include those areas that most clearly fit the definition, such as Downtown Toms River. Areas that are not as easily defined could be placed in the Plan Implementation Agreement, in which a schedule would be established to more clearly set forth the basis for Center designation. One of the areas of discussion for the PIA approach was the Ciba-Geigy site. It was pointed out at the meeting that BASF is in the final stages of completing its purchase of Ciba and that consideration is being given to having the BASF site designated as a center. It offers significant long-term opportunities as a mixed use employment and transit center, at a size and scale that would not only assure that remediation and clean up would be completed on the site, but that significant improvements could be made in regional traffic and mass transit (rail) infrastructure. OSG meeting participants felt that the issues surrounding the BASF site are too far-reaching to address during the Plan Endorsement phase and would more logically be addressed as part of the PIA.

It was noted during the meeting that I would be away for most of the month of February, but that it was necessary in order to keep the process moving that we have certain goals to accomplish during February. In that regard we have pointed toward a meeting to be scheduled in early March. We will provide OSG with a shapefile of the affordable housing sites, and that we will continue to explore the viability of noncontiguous clustering by gathering data on potential "sending" locations.